



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,050	11/27/2000	Joseph G. Gatto	23449-010	4426

29315 7590 12/14/2004

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON, VA 20190

EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT PAPER NUMBER

3624

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,050

Applicant(s)

GATTO, JOSEPH G.

Examiner

Narayanswamy Subramanian

Art Unit

3624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6, 11, 12</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 - 94 are pending in the application and have been examined. The Examiner accepts the formal drawings submitted by the applicants on October 25, 2001. The rejections are stated below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-94 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 and 39, the phrase "to enable one or more users to view" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Similarly claims 6, 13, 20, 47 and 53 use the phrase "for enabling", claims 35 and 39 use the phrase "to enable" and claims 63, 64, 71-73 and 78 use the phrase "further enabling" which renders these claims indefinite. The other claims are rejected because they are dependent on the rejected claims. Clarification/correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al (US Patent 6,064,984) in view of Lundgren (US Patent 5,608,620)

With reference to claims 1 and 39, Ferguson et al teaches a computer implemented user interface system for viewing and analyzing performance data including a performance view module for viewing performance data including time series data for a predetermined period, for a predetermined event (See Ferguson Abstract, Figure 7, Column 2 lines 27-65, Claims 1-4, 8 and 9).

Ferguson does not explicitly teach the step wherein performance data is aggregated according to one or more user-defined criteria wherein one or more contributors' performance in estimating earnings events are measured and compared.

Lundgren discloses the step wherein performance data is aggregated according to one or more user-defined criteria wherein one or more contributors' performance in estimating earnings events are measured and compared (See Lundgren Abstract, Column 1 lines 22-63, Claims 1 and 10). Corporate profits are interpreted to include earnings events.

Both Ferguson and Lundgren are concerned with the problem of forecasting financial data. It would have been obvious to one with ordinary skill in the art at the time of the current invention to combine the steps taught by Lundgren to the invention of Ferguson. The combination of the disclosures taken as a whole suggests that users would have benefited from being able to view performance data for various contributors and helped the users in their decision-making.

With reference to claims 2-38 and 40-94, the features in these claims are either taught by the combined disclosures of Ferguson and Lundgren or are old and well known in the art. The

Art Unit: 3624

combination of these disclosures taken as a whole suggests that users would have benefited from being able to further refine the process for viewing performance data for various contributors and helped the users in their decision making.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft to the Patent Office is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian
November 23, 2004


Jagdish N. Patel
Primary Examiner